



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

March 28, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Pooja A. Rawal, Esq.
Senior Attorney
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

Ehab Abdalah, MD


RE: In the Matter of Ehab Abdalah, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 19-066) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct
New York State Department of Health
Office of Professional Medical Conduct
Riverview Center
150 Broadway - Suite 355
Albany, New York 12204

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Chief Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,



James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: *cmg*
Enclosure

**STATE OF NEW YORK: DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

In the matter of

Ehab Abdalah, MD
NYS license # 239123

**Determination
and Order**

19-066

A notice of referral proceeding and statement of charges, dated January 28, 2019, were served on Respondent **Ehab Abdalah, MD**. The statement of charges alleged professional misconduct in violation of New York State Education Law 6530. (Exhibit 3.) A hearing was held at offices of the New York State Department of Health, 259 Monroe Avenue, Rochester, New York, on March 13, 2019.

Pursuant to Public Health Law 230(10)(e), **Jagdish M. Trivedi, MD**, Chair, **Paul C. Harrington, MD**, and **Georgia K. Millor, PhD**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee. **John Harris Terepka**, Administrative Law Judge, served as the administrative officer.

The Department of Health (the Petitioner) was represented by **Pooja A. Rawal, Esq.** **Ehab Abdalah, MD**, (the Respondent) did not appear, although duly served with notice of the hearing in conformity with the requirements of PHL 230(10)(d). (Exhibit 2.) Evidence was received and a transcript of the proceedings was made. After consideration of the entire record, the hearing committee issues this determination and order sustaining the charges and revoking the Respondent's license to practice medicine.

JURISDICTION

As is set forth in Public Health Law 230(1)&(7) and Education Law 6530, the legislature created the State Board for Professional Medical Conduct in the Department of Health and authorized it to conduct disciplinary proceedings in matters of professional medical conduct. In this case, the Respondent, a physician, has been charged with misconduct pursuant to Ed.L 6530(9)(d).

Pursuant to PHL 230(10)(p), a hearing on limited issues, or "direct referral proceeding," is authorized when a licensee is charged solely with a violation of Ed.L 6530(9). Charges of misconduct under Ed.L 6530(9) are based upon a criminal conviction or an administrative violation, in New York State or another jurisdiction, establishing conduct that would constitute a crime or professional misconduct if committed in New York. The scope of the hearing is limited to whether there is a relevant conviction or administrative determination and if so, to a determination of the nature and severity of the penalty to be imposed. PHL 230(10)(p). Hearing procedures are set forth in Department of Health regulations at 10 NYCRR Part 51.

EVIDENCE

Witnesses for the Petitioner:	None
Petitioner exhibits:	1-4

Witnesses for the Respondent:	None
Respondent exhibits:	None

A transcript of the hearing was made.

FINDINGS OF FACT

1. Respondent Ehab Abdalah, MD was authorized to practice medicine in New York State on February 23, 2006 under license number 239123. His New York license is currently inactive. (Exhibit 1.)
2. On July 13, 2018, the Arizona Medical Board issued, with the Respondent's consent, an order for letter of reprimand and probation. The Order was based on findings that the Respondent deviated from the standard of care and engaged in unprofessional conduct in the treatment of four patients. The Respondent was issued a letter of reprimand and placed on probation for two years with conditions that included continuing medical education and periodic chart reviews. (Exhibit 4.)

HEARING COMMITTEE DETERMINATION

The Arizona Medical Board found misconduct and imposed discipline on the Respondent's medical license after finding that he deviated from the appropriate standard of care in treatment of four patients. The Arizona Board identified a pattern of rapid escalation of the daily morphine equivalent dosing (MED) of opioids when starting extended-release opioids; failure to keep appropriate records for dates on which controlled substances were prescribed; and failure to adequately monitor and oversee the treatment of a patient. One of the four patients died of methadone and oxycodone toxicity. (Exhibit 4.) The hearing committee unanimously agreed (3-0) that the unprofessional conduct found by the Arizona Medical Board would, if committed in New York, constitute misconduct pursuant to Ed.L 6530(3) (negligence on more than one occasion), (4) (gross negligence) and (32) (failing to maintain an accurate record for each patient).

The hearing committee unanimously determined (3-0) that, as alleged in the statement of charges, the Arizona Board's order imposing a reprimand and probation established that the Respondent violated Ed.L 6530(9)(d) which defines professional misconduct, in pertinent part, as:

9. (d) Having his or her license to practice medicine revoked, suspended or having other disciplinary action taken... or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action... or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state.

The Petitioner recommended revocation of the Respondent's license. The hearing committee agreed that the findings of the Arizona Board established serious misconduct in a pattern of escalating opioid prescriptions that led in one instance to the death of the patient. These dangerous practices were exacerbated by a failure to create or maintain adequate records and failure to adequately supervise medical assistants who provided care for which the Respondent billed. While the Arizona Board imposed a penalty short of revocation, the hearing committee noted that the Respondent cooperated with that licensing authority and consented to discipline. The hearing committee concluded that the seriousness of the misconduct, together with the Respondent's failure to communicate with New York licensing authorities about or respond to the charges, justified the revocation of the Respondent's currently inactive license to practice in New York. Although duly served with notice of the hearing in conformity with PHL 230(10)(d), the Respondent failed to appear and failed to offer any evidence or argument to persuade the committee to a different conclusion. The hearing committee unanimously (3-0) determined that revocation of the Respondent's license pursuant to PHL 230-a(4) is an appropriate penalty.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in New York State is **REVOKED**.

This order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required under PHL 230(10)(h).

Dated: Albany, New York

By:


Jagdish M. Trivedi, MD, Chair

Paul C. Harrington, MD
Georgia K. Millor, PhD

To: Pooja A. Rawal, Esq.
Bureau of Professional Medical Conduct
Corning Tower, Empire State Plaza
Albany, New York 12237-0032

Ehab Abdalah, MD



APPENDIX A

IN THE MATTER
OF
EHAB ABDALAH, M.D.

STATEMENT
OF
CHARGES

EHAB ABDALAH, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 23, 2006, by the issuance of license number 239123 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 13, 2018, the Respondent was issued an Order for Letter of Reprimand and Probation ("Order") with the Arizona Medical Board ("AMB"). The Order was based on his care and treatment of four patients from approximately April 2009 through May 2016. The Respondent was found to have multiple deviations from the standard of care by demonstrating a pattern of rapidly escalating the daily morphine equivalent dosing of opioids when starting extended-release opioids and incomplete or blank procedure notes for dates controlled substances were prescribed.

B. The conduct resulting in the AMB's disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following sections of New York State Law:

1. New York Education Law §6530(3) (Practicing the profession of medicine with negligence on more than one occasion); and/or


2. N.Y. Educ. Law § 6530(4) (Practicing the profession of medicine with gross negligence on a particular occasion); and/or
3. N.Y. Educ. Law § 6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATION OF CHARGES
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state as alleged in the facts of the following:

1. The facts in Paragraphs A, B, and/or B1 and/or B2 and/or B3.

DATE: January 28, 2019
Albany, New York


TIMOTHY MAHAR /
Deputy Counsel
Bureau of Professional Medical Conduct